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*Tax Policy for a Better Tomorrow: Intersectoral and
Multidisciplinary Connections, a Workshop in Honour
of Neil Brooks*

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On Being Here to Stay: Treaties and Aboriginal Rights in Canada, by Michael Asch

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Book Note

ON BEING HERE TO STAY: TREATIES AND ABORIGINAL RIGHTS IN CANADA, by Michael Asch¹

ALYSSA ARMSTRONG

MICHAEL ASCH'S LATEST BOOK, *On Being Here to Stay*, provides a vision of Canada that suggests turning the settler narrative of Canada's history on its head. Asch takes former Chief Justice Lamer's assertion that "we are all here to stay"² as a departure point for his political and anthropological analysis of the legal justification for the colonization and assertion of sovereignty over the traditional lands of Canada's Indigenous peoples.

The book proceeds in two parts. In the first part of the book, the author explores two critiques of his argument that given that the settler society has established itself in Canada, it must be permitted to exert sovereignty over that settled territory. Those critiques are first, that the Indigenous peoples of Canada ought to have the right to self-determination; and second, that the treaties entered into with the Indigenous peoples of Canada are not sufficient to lend legitimacy to the current political regime as it is exercised over Canada's Indigenous peoples.

In the second part of the book, Asch uses Numbered Treaties to outline potential solutions to the problem of a colonial hegemonic power exerting its sovereignty over the First Nations, Métis, and Inuit peoples of Canada, despite the internationally recognized norms of self-determination. The book's central aim is to address the tension between the ideal and legal norm of self-determination,

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1. (Toronto: University of Toronto Press, 2014) 217 pages.
 2. *Ibid* at 3, citing *Delgamuukw v British Columbia*, [1997] 3 SCR 1010 at para 186, Lamer J, 153 DLR (4th) 193.

on the one hand, and the reality of settler sovereignty over Indigenous peoples in Canada, on the other.

In chapter one, Asch outlines the main arguments of his book and explains that the impetus for his writing and thinking arises out of the 1960 *United Nations Declaration on Decolonization*.³ The following two chapters are dedicated to debunking opposing notions about Indigenous relations in Canada. In chapter two, Asch takes up the critique of settler sovereignty over Indigenous peoples by asserting that there is an inherent contradiction in recognizing the right to self-determination while a settler society simultaneously asserts legislative authority over Indigenous peoples. Similarly, in chapter three, Asch takes up Tom Flanagan's assertion that temporal ordering should not be given any weight in according political rights to the Indigenous peoples of Canada. Asch proceeds to dismantle persuasively what is, at best, an extremely conservative argument, and what may more accurately be understood as a neo-colonial argument. Although Asch never refers to Flanagan's argument as blatantly neo-colonial, he is careful to expose Flanagan's argument as one that is a justification of colonialism.⁴

Chapter four shifts to a discussion of why the *UN Declaration on Decolonization*⁵ does not apply to Canada. In doing so, the author takes up the argument of Alan Cairns, who argues that by virtue of their population numbers, white settlers in Canada are permitted to continue to occupy the land and exert sovereignty over Canadian territory. Chapter five seeks to complicate this position by introducing the notion that Canadian settler society has legitimate sovereignty rights by virtue of the treaties entered into between Indigenous peoples and the settlers upon their arrival. Chapter six introduces the argument that contemporary political thought fails to accommodate Indigenous rights within a settler society.

Chapter seven introduces a form of nation-to-nation relationship that does not currently exist in contemporary political thought. Chapter eight then takes up this framework to suggest that treaties should be the vehicle through which to operationalize such a nation-to-nation relationship. Treaties 4 and 6 serve as examples to demonstrate the principles of sharing and reciprocity intended to be at the core of the relationship between Indigenous peoples and the settler society. Chapter nine concludes that inherent in the treaties was an agreement that settlers would do no harm to Indigenous peoples. To the extent that the

3. *Declaration on the Granting of Independence to Colonial Territories and Peoples*, GA Res 1514 (XV), UNGAOR, 15th Sess, Supp No 16, UN Doc A/4684 (1961) [*UN Declaration on Decolonization*].

4. *Supra* note 1 at 53.

5. *Supra* note 3.

Canadian government has harmed and continues to harm Indigenous people, it has not held up its side of the bargain. Asch ultimately concludes that what is required is a revision of the narrative that Canadian settler society learns and teaches about its own colonial legacy.

On Being Here to Stay offers a critical interdisciplinary perspective on Aboriginal rights in Canada. It should appeal to a broad audience because the author successfully weaves together ideas from theories of law, politics, and anthropology.